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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,781	06/20/2002	Michael Alan Morris	025265-232	2611

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EXAMINER

THOMAS, BRANDI N

ART UNIT PAPER NUMBER

2873

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/089,781

Applicant(s)

MORRIS ET AL.

Examiner

Brandi N Thomas

Art Unit

2873

*[Handwritten mark]*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 and 31 is/are allowed.
- 6) ☒ Claim(s) 15-17, 21-23 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 18-20, 24, 25, 29 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 and 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Detailed Action*.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. Acknowledgement is made of receipt of Information Disclosure Statement(s) (PTO-1449) filed 12/12/02 and 1/13/03. An initialed copy is attached to this Office Action.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15-17, 21-23, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al. (6260967 B1) in view of Umeda (5805265).

Regarding claim 15, Edwards et al. teaches a progressive ophthalmic lens element including a lens surface having an upper viewing zone having a surface power corresponding to distance vision, a lower viewing zone having a greater surface power than the upper viewing zone to achieve a refracting power corresponding to near vision; and an intermediate zone extending across the lens element having a surface power varying from that of the upper viewing

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zone to that of the lower viewing zone and including a corridor of relatively low surface astigmatism (col. 1, lines 37-44); the progressive ophthalmic lens series including lens elements having a base curve suitable for use in providing a range of distance prescriptions for one or more of emmetropes, hyperopes and myopes, each lens element differing in prescribed addition power and including progressive design (col. 1, lines 18-25) except that it does not show an a relatively high and wide lower viewing zone and a relatively wide intermediate zone.

Umeda shows that it is known to provide a relatively high and wide lower viewing zone and a relatively wide intermediate zone to pursue the amenity in far viewing and near viewing (col. 3, lines 16-17, col.4, lines 64-67 and col. 5, lines 1-4). Therefore it would have been obvious to someone of ordinary skill in the art at the time the invention was made to combine the teaching of Edwards et al. with the relatively high and wide lower viewing zone and a relatively wide intermediate zone of Umeda for the purpose of to pursuing the amenity in far viewing and near viewing (col. 3, lines 16-17, col.4, lines 64-67 and col. 5, lines 1-4).

Regarding claim 16, Edwards et al. discloses wherein each lens element in the series has a progressive lens design exhibiting a small amount of addition power proximate the fitting cross, dependent on the prescribed addition power and the base curve (col. 2, lines 52-64).

Regarding claim 17, Umeda discloses wherein the addition power proximate the fitting cross of a progressive lens element is in the range from 0.5 to .40 D, the fitting cross addition power increasing with the addition power for each of the base curves, and with the increasing base curve for each addition power (col. 6, lines 15-25).

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Regarding claim 21, Edwards et al. discloses wherein the progressive lens design of each lens element in the series includes a surface correction(s) in the peripheral regions of the lens element to reduce or minimize the phenomenon of swim (col. 1, lines 50-59).

Regarding claim 22, Edwards et al. discloses wherein the surface corrections function to reduce the optical aberrations in lens surface areas including a pair of generally horizontally disposed sectors approximately  $\pm 22.5^\circ$  above and below a generally horizontal axis passing through the fitting cross (col. 2, lines 26-38).

Regarding claim 23, Umeda et al. discloses wherein the opposed sectors have a radius of approximately 15mm or more (col. 3, lines 8-10).

Regarding claim 26, Umeda et al. discloses wherein each element within the series exhibits a substantially constant area of clear vision on the lens surface within the lower viewing zone (col. 5, lines 46-51).

Regarding claim 27, Edwards et al. discloses wherein each lens element includes a surface correction to improve optical properties proximate the peripheries of the lens elements (col. 2, lines 50-59).

Regarding claim 28, Edwards et al. discloses wherein the distribution of RMS power error is varied proximate the peripheries of the upper and/or lower viewing zones to improve peripheral vision (col. 6, lines 53-61).

***Allowable Subject Matter***

5. Claims 1-14, and 31 are allowed.

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6. Claims 18-20, 24-25, and 29-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claim(s), in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in claim(s) 1-14, 18-20, 24-25, and 29-30, wherein the claimed invention comprises a relatively wide intermediate zone wherein the upper viewing zone and lower viewing zone are such that the ratio of the area of clear vision of the upper viewing zone to the lower viewing zone is less than approximately 3.00 and greater than approximately 2.50; wherein the lens element series exhibits a decrease in the area of the zone clear for distance inside a 22mm radius circle and constrained by the Add/4 diopeters RMS power error contour ray traced in the as worn configuration for an infinite object distance with increasing base curve; wherein the difference between maximum and minimum sagittal addition power within each opposed sectors is less than  $0.75 \times \text{Add}$  diopeters; wherein the distribution of RMS power exhibits a low gradient proximate the distance periphery and a high gradient proximate the near periphery; and a method of selecting a merit function relating to at least one optical characteristic of the lens and solving global minimization using the Finite Element Method, as claimed.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Mukaiyama et al. (6220704) discloses a progressive power lens in which the optimum aspherical shape is given to the entire lens.

Ahsbabs et al. (5812238) discloses a progressive power multifocal lens in which each lens has an aspherical surface.

Guilino et al. (4240719) discloses an eyeglass lens (ophthalmic lens) to create a progressive surface from the physiological-optical standpoint.

Baude et al. (5530491) discloses an ophthalmic lens in which to define two distinct vision areas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandi N Thomas whose telephone number is 703-308-3095. The examiner can normally be reached on 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 703-308-4883. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4883.

BNT

BNT

  
RICKY MACK  
PRIMARY EXAMINER